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Special Litigation Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:  
USA COMMERCIAL MORTGAGE COMPANY,  
Debtor.

Case Nos.:  
BK-S-06-10725-LBR  
BK-S-06-10726-LBR  
BK-S-06-10727-LBR  
BK-S-06-10728-LBR  
BK-S-06-10729-LBR

In re:  
USA CAPITAL REALTY ADVISORS, LLC,  
Debtor.

JOINTLY ADMINISTERED  
Chapter 11 Cases

In re:  
USA CAPITAL DIVERSIFIED TRUST DEED FUND,  
LLC,  
Debtor.

Judge Linda B. Riegle

In re:  
USA CAPITAL FIRST TRUST DEED FUND, LLC,  
Debtor.

In re:  
USA SECURITIES, LLC,  
Debtor.

Affects:  
 All Debtors  
 USA Commercial Mortgage Company  
 USA Capital Realty Advisors, LLC  
 USA Capital Diversified Trust Deed Fund, LLC  
 USA Capital First Trust Deed Fund, LLC  
 USA Securities, LLC

1 USACM LIQUIDATING TRUST,

2 Plaintiff,

3 v.

4 ROBERT A. RUSSELL; DEBORAH RUSSELL;  
 RUSSELL AD DEVELOPMENT GROUP, LLC;  
 COPPER SAGE COMMERCE CENTER LLC;  
 FREEWAY 101 USA INVESTORS, LLC;  
 BOISE/GOWEN 93, LLC; DER NV INVESCO, LLC;  
 FWY 101 LOOP RAR INVESTMENT, LLC; and  
 BG/93 INVESTMENTS, LLC; SVRB INVESTMENTS,  
 LLC,

5 Defendants.

6 **Adversary No. 08-01119**

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**NOTICE OF HEARING ON  
 MOTION SEEKING THE  
 APPROVAL OF THE  
 SETTLEMENT AGREEMENT  
 BETWEEN THE USACM  
 LIQUIDATING TRUST AND  
 THE RUSSELL ENTITIES**

Hearing Date: August 21, 2009  
 Hearing Time: 9:30a.m

**NOTICE IS HEREBY GIVEN** that a Motion for Approval of Settlement Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “Motion”) was filed on June 24, 2009 by the USACM Liquidating Trust (the “USACM Trust”) [Dkt. No. 7205]. The Motion seeks entry of an order approving the proposed settlement between the USACM Trust and the following entities: Robert A. Russell, Deborah Russell, Interstate Commerce Center, LLC, Unser/Central Partners, LLP, AD Albuquerque Development, LLC, Russell A D Development Group, LLC, Copper Sage Commerce Center LLC, Freeway 101 USA Investors, LLC, Boise/Gowen 93, LLC, DER NV Invesco, LLC, Fwy 101 Loop RAR Investment, LLC, BG/93 Investments, LLC, and SVRB Investments, LLC (collectively, “**the Russell Entities**”).

**NOTICE IS FURTHER GIVEN** that if you do not want the Court to grant the relief sought in the Motion, or if you want the Court to consider your views on the Motion, then you must file an opposition with the Court, and serve a copy on the person making the Motion **no later than 15 days** after the date of this Notice. If the hearing date has been set on less than 15 days’ notice, then the opposition must be filed and served **no later than 5 business days** before the hearing. The opposition must state your position, set forth all relevant facts and legal authority, and be supported by affidavits or declarations that conform to Local Rule 9014(c).

1 If you object to the relief requested in the Motion, you **must** file a **WRITTEN** response  
2 to the Motion with the Court. You **must** also serve your written response on the person who sent  
3 you this notice.

4 If you do not file a written response with the Court, or if you do not serve your written  
5 response on the person who sent you this notice, then:

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- 7 • The Court may *refuse to allow you to speak* at the scheduled hearing; and
- 8 • The Court may *rule against you* without formally calling the matter at the hearing.

9 **NOTICE IS FURTHER GIVEN** that the hearing on the said Motion will be held before  
10 the Honorable Linda B. Riegle, United States Bankruptcy Judge, in the Foley Federal Building,  
11 300 Las Vegas Boulevard South, Third Floor, Bankruptcy Courtroom No. 1, Las Vegas, Nevada  
12 89101 on **Friday, August 21, 2009, at 9:30 a.m.**

13 DATED this 24<sup>th</sup> day of June, 2009.

14 **DIAMOND MCCARTHY LLP**

15 By: /s/ Eric D. Madden  
16 Allan B. Diamond, TX 05801800 (pro hac vice)  
Barbara Balliette, TX 00788660 (pro hac vice)  
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18 *Special Litigation Counsel for*  
*USACM Liquidating Trust*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of the law firm of DIAMOND MCCARTHY LLP,  
3 and that on the 24<sup>th</sup> day of June 2009, I served a true and correct copy of the foregoing **NOTICE**  
4 **OF HEARING ON MOTION SEEKING THE APPROVAL OF THE SETTLEMENT**  
5 **AGREEMENT BETWEEN THE USACM LIQUIDATING TRUST AND THE**  
6 **RUSSELL ENTITIES** (a) by electronic transmission to (i) all parties on the USACM Post-  
7 Effective Date Service List Dated March 31, 2009 and (ii) counsel for the Russell Entities, Scott  
8 A. McGath at [sam@omhndlaw.com](mailto:sam@omhndlaw.com).

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11 /s/ Catherine A. Burrow, CLA  
12 Catherine A. Burrow, CLA  
Diamond McCarthy LLP  
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